IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE No. 27 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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COMMISSIONER OF WEALTHTAX - Applicant(s)
Versus
TRANSIT KALINDI TRUST - Respondent(s)

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Appearance :
MR MANISH R BHATT for Applicant(s) : 1,
SERVED BY RPAD - (N) for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG
and
HONOURABLE MR.JUSTICE M.R. SHAH

Date : 25/07/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE R.S.GARG)

Mr. Manish R. Bhatt, learned counsel for the Revenue. None for the assessee, though served. In the present matter, the Income Tax Appellate Tribunal has referred the following question for our opinion;

> "Whether, the Appellate Tribunal is right in law and on facts in holding that as the net wealth of the assessee was below the exemption limit, the WTO was not justified in applying the provisions of sec. 21(4) of the W.T. Act and taxing the trust at higher of the two rates prescribed u/s. 21(4) of the W.T. Act ?"

2. In an identical situation, this Court, in the matter of *Commissioner of Wealth-Tax Vs. Rekha And Dhanesh Trust, 1998 Vol.231 ITR 805* has held that if the net wealth of the Trust is below the statutory limit for charge of tax, then the Trust would not be liable to tax because the amendments made in Section 21(4) of the Wealth Tax Act, 1957 do not change the law. In view of the said authoritative pronouncement of this Court, we must hold that the Tribunal

was justified in holding that the Trust was not liable to tax. The Reference is answered against the Revenue.

[R.S. Garg, J.]

[M.R. Shah, J.

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RMR.